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| 10/614,246      | 07/08/2003  | Thomas E. Lenkman    | TEM-20A             | 6077             |

7590 03/22/2005  
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EXAMINER

SWENSON, BRIAN L

ART UNIT PAPER NUMBER

3618

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/614,246

Applicant(s)

LENKMAN, THOMAS E.

Examiner

Brian Swenson

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: "A self-propelled transport" found in line 2 should be changed, --a self-propelled transport--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, the phrase "said raising and lower means" is indefinite because the Examiner is unsure whether this "said raising and lower means" is the same as the "means to raise and lower motive components" found in claim 1.

3. Regarding claim 10 the limitation "the battery charger" in line 2. There is insufficient antecedent basis for this limitation in the claim.

4. Regarding claim 13 the limitation "treat position for medical device opeation" in line 3. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3, 10 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,372,769 issued Jung et al.

Jung et al. teach in Figures 1-6 and respective portions of the specification of a transport system comprising (10): a self-propelled transport assembly, and controlling means (24) to raise and lower motive components to facilitate different modes of operation (see abstract and Figures 3-6).

In regards to claims 2-3, Jung et al. as best understood, teach the raising and lowering means comprise a system of air compressors (28) and pneumatic lift devices (24), pneumatic plumbing (30,74).

In regards to claim 10, Jung et al. as best understood, teach of providing for a battery charged by an external, Col. 2, lines 44-47.

6. Claims 1-5, 10 and 13-14 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,845,914 issued Lenkman.

Lenkman teach in Figures 1-13 and respective portions of the specification of a transport system (7) comprising: a self-propelled transport assembly, and controlling means (53,55) to raise and lower motive components to facilitate different modes of operation (see at least Col. 2, lines 60+ through Col. 3, lines 1-8 for the shocks expanded mode of operation and shocks retracted mode of operation).

In regards to claims 2-3, Lenkman as best understood, teach the raising and lowering means comprise a system of air compressors (57,59) and pneumatic lift devices (53,55), pneumatic plumbing (unlabeled inherently provided).

In regards to claim 4, Lenkman as best understood, teach of the motive components comprise unpowered casters (49) and at least two powered drive units (37; Figure 13).

In regards to claim 5, see Figures 4 and 5.

In regards to claim 10 Lenkman as best understood, teach of providing for a battery charged by an external reel, Col. 6 lines 29-37.

In regards to claim 11 Lenkman as best understood, teach of a joystick assembly (65) to control motion.

In regards to claims 13 and 14, as best understood, Lenkman teaches of controlling the modes of operation by inflating/deflating pneumatic lift devices, see at least summary of invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6-9, 12 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Lenkman.

In regards to claims 6 and 8-9, Lenkman as best understood, teaches of powered drive unit comprising: an electric motor (39), a drive belt (41), an axle (Figure 13), and a wheel (37). Lenkman does not state if the electric motor is a variable speed reversible electric motor. Variable speed reversible electric motors are well-known in the mechanical art. Lenkman, also teaches of a drive belt, not a chain. It would have been obvious to one having ordinary skill in the art at the time of invention to use a variable speed reversible electric motor and drive chain in place of the drive belt. One would be motivated to use a variable speed drive motor to allow the transported to move the cart forward or rearward at a variety of speeds, one would be motivated to use a drive chain to allow the motor to rotate the drive wheel without slipping. In regards to claims 8 and 9, see at least Col. 6, lines 29-36.

In regards to claims 7 and 12, Lenkman discloses the claimed invention including teaching of an electronics cabinet as shown in Figure 12 placed below reference numeral (59). Lenkman does not state if indicators are provided. It would have been obvious to one having ordinary skill in the art at the time of invention to provide indicators. The motivation for providing indications would be to alert the user of the charge contained in the battery.

8. Claim 7, as best understood is rejected under 35 U.S.C. 103(a) as being unpatentable over Jung et al.

Jung et al. disclose the claimed invention including teaching the air compressor assembly (26) can be connected to a battery or an external power supply (Col. 2, line 44-47). Jung et al. does not state if indicators are provided. It would have been

obvious to one having ordinary skill in the art at the time of invention to provide indicators. The motivation for providing indications would be to alert the user of the charge contained in the battery.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,211,254 issued to Harris, III et al. teaches of a chain driven.

U.S. Patent No. 6,564,890 issued to Coveyou teaches of a floating drive.

U.S. Patent No. 3,942,823 issued to Shields et al. teaches of a towing structure.

U.S. Patent No. 5,535,465 issued to Hannant teaches of a transporter that can be raised hydraulically.

U.S. Patent No. 6,131,690 issued to Galando et al. teaches of a motorized cart.

U.S. Patent No. 5,799,258 issued to Fidanza et al. teach of a joystick structure for a wheelchair.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Swenson whose telephone number is (703) 305-8163. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (703) 305-0168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BS 3/6-05

bls

Brian Swenson  
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Art Unit 3618



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